

SENATE BILL 38 of the First Extraordinary Session
By McNally

AN ACT to amend Tennessee Code Annotated, Title 67, Chapter 4,
relative to taxation.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 67, Chapter 4, is amended by adding
the following language as a new, appropriately designated part:

§67-4-__01. As used in this part, unless the context otherwise requires:

(1) "Commissioner" means the commissioner of revenue;

(2) "Department" means the department of revenue;

(3) "Original value of the spent nuclear fuel" means the fair market value of the
nuclear fuel at the time of its initial usage as nuclear fuel;

(4) "Person" means:

(A) Any individual, corporation, partnership, firm, association, trust,
estate, or other business or governmental entity, including any federal, state, or
local government, or political subdivision, or any agent or agency thereof; and

(B) Any legal successor, representative, agent, or agency of any person
or entity included within Item (4)(A) above;

(5) "Spent nuclear fuel" means as defined in 42 U.S.C. §10101(12) and (23).

(6) "Storage" means retention of spent nuclear fuel for purposes of:

(A) Safekeeping; or

(B) Reprocessing for subsequent use or disposal.

"Storage" does not include possession, for a period of thirty (30) days or less, of spent nuclear fuel temporarily held for transport to another location for permanent storage.

§67-4-__02.

(a) The storage by any person of spent nuclear fuel in this state is declared to be a taxable privilege upon which a tax is hereby imposed.

(b) Every person exercising such privilege shall be liable for the tax, whether such person's storage of such spent nuclear fuel is by virtue of such person's ownership thereof or is pursuant to a lease, contract, license, loan or otherwise.

§67-4-__03. The tax imposed by the provisions of this part shall be in addition to all other taxes, whether levied in the form of excise, license, or privilege taxes, and shall be in addition to all other fees and taxes levied.

§67-4-__04.

(a) Administration and collection of the tax shall be by the department in the same manner as other privilege taxes.

(b) In accordance with Title 4, Chapter 5, the commissioner may promulgate such rules as may be necessary and reasonable for the administration of the provisions of this part.

§67-4-__05. The tax imposed pursuant to § 67-4-__02 shall be levied and collected annually. The annual rate of the tax shall be one percent (1%) of the original value of the spent nuclear fuel in storage. Tax liability for spent nuclear fuel stored for less than the full tax year shall be calculated on a prorated basis.

§67-4-__06.

(a) The tax levied by the provisions of this part shall be due and payable in full on or before the fifteenth day of the fourth month commencing after the end of the taxpayer's tax year.

(b)

(1) For the purpose of ascertaining the amount of tax owed, it shall be the duty of each person liable for the tax to transmit to the commissioner a return or returns, as applicable, upon forms provided by the commissioner.

(2) Such return or returns shall be transmitted to and received by the commissioner on or before the fifteenth day of the fourth month commencing after the end of the taxpayer's tax year.

(3) Each return shall show the year covered by that return, the county in which the spent nuclear fuel (with respect to which the return is filed) was stored, the date upon which the spent nuclear fuel was placed in storage, the length of time the spent nuclear fuel remained in storage, the amount of tax owed under this part and such other information as the commissioner may require.

(4) The return shall be accompanied by a remittance covering the amount of tax due as computed by the taxpayer.

§67-4-__07.

(a) The tax shall become delinquent on the sixteenth day of the fourth month commencing after the end of the taxpayer's tax year.

(b)

(1) Any person liable for the tax who, on or before the delinquency date, fails to make any return required by this part and pay the full amount of the tax due and payable under this part, shall be liable for a specific

penalty in the amount of ten percent (10%) of the tax due, which penalty shall be in addition to other penalties provided herein.

(2) A further penalty of fifty percent (50%) of the amount of the tax remaining due and unpaid on such delinquency date may be added if, in the opinion of the commissioner based on reasonable evidence thereof, the nonpayment of the tax or any portion thereof is due to an intent to evade payment of the tax.

(c) If the nonpayment of the tax is due to an intent to evade payment of the tax, the person liable for the tax under this part may be restrained and enjoined by any court of competent jurisdiction from storing spent nuclear fuel in the county or municipality in which the fuel was stored with respect to which the tax liability or use took place. Such proceeding shall be instituted in the name of the state by the attorney general and reporter, upon the request of the commissioner.

(d) There shall be added to the amounts of tax and penalty due under this part interest in accordance with the provisions of §67-1-801.

(e) All such penalties and interest imposed under this part shall be payable to and collectible by the commissioner in the same manner as if they were a part of the tax imposed hereunder.

(f) Any person required by the provisions of this part to make a return, pay a tax, keep records, or furnish information deemed necessary by the commissioner for the computation, assessment, or collection of the tax imposed under this part, and who fails to make the return, pay the tax, keep the records, or furnish the information at the time required by this part, or rules and regulations promulgated by the commissioner thereunder, commits a Class B misdemeanor, in addition to other penalties provided by law.

(g) Any person, or any officer, employee, or, in the case of a partnership, member of a partnership, who willfully and fraudulently makes and signs a return which such person, officer, employee or member does not reasonably believe to be true and correct as to every material fact commits a felony and is subject to the penalties prescribed for perjury under the laws of this state.

§67-4-__08. Except as provided by §67-4-1108(1), all revenues collected from each taxpayer under this part shall be paid into the general fund of the state.

SECTION 2. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 3. This act shall take effect January 1, 2000, the public welfare requiring it.